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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,690	12/05/2001	Philip Gerard Cavanaugh		4679

7590  
Philip G. Cavanaugh  
26215 IVANHOE  
REDFORD, MI 48239

04/03/2003

EXAMINER
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HINES, JANA A

ART UNIT	PAPER NUMBER
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1645

DATE MAILED: 04/03/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/002,690

Applicant(s)

CAVANAUGH, PHILIP GERARD

Examiner

Ja-Na A Hines

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on 05 December 2001.

2a) ☐ This action is **FINAL**.

2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 1-35 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☒ Claim(s) 1-35 are subject to restriction and/or election requirement.

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-4 are drawn to a method for evaluating growth factor or other biological factors, classified in class 435, subclass 7.9.
  - II. Claims 1, 5-7, 9-11 and 13 are drawn to a method for evaluation examined by electrophoresis, classified in class 435, subclass 183.
  - III. Claims 1,5, 8-11 and 13 are drawn to a method for evaluation using dot or slot-blot methods, classified in class 4335, subclass 174.
  - IV. Claims 1 and 12-13 are drawn to a method for evaluation determined by competitive binding, classified in class 435, subclass 173.9.
  - V. Claims 1 and 14-15 are drawn to a method for evaluation that measures cellular ligand internalization, classified in class 435, subclass 7.93.
  - VI. Claims 1 and 16-17 are drawn to a method for evaluation of iron binding protein and transferrin, classified in class 435, subclass 334.
  - VII. Claims 1 and 18-19 are drawn to a method for evaluation of the degree of aggressiveness of tumor cells, classified in class 435, subclass 7.23.
  - VIII. Claims 1 and 20-21 are drawn to a method of evaluation using anti-FITC antibodies, classified in class 435, subclass 125.
  - IX. Claims 1 and 22-24 are drawn to a method of evaluation the cell binding capacity of ConA, classified in class 530, subclass 396.

- X. Claims 1 and 25-27 are drawn to a method of evaluating annexin V to determine cell apoptosis, classified in class 435, subclass 29.
  - XI. Claims 1 and 28 are drawn to a method of evaluating avidin, classified in class 435, subclass 7.5.
  - XII. Claims 1 and 29-34 are drawn to a method of evaluating specific PCR products, classified in class 435, subclass 91.2.
  - XIII. Claims 1 and 35 are drawn to a method of evaluation insulin, classified in class 530, subclass 303.
2. The inventions are distinct, each from the other because of the following reasons: Inventions I and any of groups II-XIII are related as methods. Even though all the groups contain generic claim 1, the methods are distinct as claimed because each group has different method steps; different functions and the effects have different final outcomes. Only group X determines cell apoptosis, likewise only group XIII is drawn to the evaluation of insulin. The method of evaluating the cell binding capacity of annexin is like the outcome of any other group. Each group has different effects when compared to the other groups, i.e., a method for evaluation of the degree of aggressiveness of tumor cells. Moreover, the groups use different reagents and means of determination such as dot-blot methods or PCR methods. Therefore, the methods of the inventions are distinct as claimed.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II-XIII, restriction for examination purposes as indicated is proper.
5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ja-Na Hines whose telephone number is 703-305-0487. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on 703-308-3909. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Ja-Na Hines *JN*  
March 31, 2003

*LFS*  
LYNETTE R. F. SMITH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600